

Appl. No. 09/981,070  
Amendment dated March 23, 2004  
Reply to Office Action of February 26, 2004

### REMARKS

Entry of the foregoing and favorable consideration and reexamination of the subject application, as amended, pursuant to and consistent with 37 C.F.R. § 1.112, and in light of the remarks which follow, are respectfully requested.

By the present amendment, claims 1, 48-74 and 93-97 have been cancelled as drawn to a non-elected invention. Applicant reserves the right to file a divisional application directed to the cancelled subject matter. Claim 75 has been amended to correct a typographical error and claim 79 has been amended to incorporate the subject matter of cancelled claim 1. Applicants submit that the amended claims do not represent new matter.

### CLAIM PRIORITY

Applicants note that a claim for priority to French application 00/10029 filed on July 28, 2000 in France was made. Applicants have submitted a certified copy of the priority document on March 12, 2002. Applicants have received a stamped postcard to that effect (copy enclosed). Applicants request acknowledgment of the receipt of the priority document.

### CLAIM OBJECTIONS

Claim 79 has been objected to under 37 C.F.R. § 1.75(c) as being in improper form. Claim 79 has been amended to incorporate the subject matter of claim 1, which should render this objection now moot.

Therefore, in view of the above, withdrawal of this objection is respectfully requested.

### SUMMARY

Applicants submit that the claims are in condition for allowance and notification to that effect is earnestly solicited. The Examiner has invited to contact Applicants' representative if prosecution may be assisted thereby.

Respectfully submitted,

MERCHANT & GOULD  
P. O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 371-5265

Date: March 23, 2003

By Katherine M. Kowalchuk  
Katherine M. Kowalchuk  
Reg. No. 36,848

**23552**

PATENT TRADEMARK OFFICE

Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office:

In re Application of: Gabriel FESTOC  
For: DEVICE FOR THERMO-DEPENDENT CHAIN REACTION AMPLIFICATION OF TARGET  
NUCLEIC ACID SEQUENCES, MEASURED IN REAL-TIME  
Docket No.: 8076.231USW1  
Filed: October 15, 2001

Serial No.: 09/981070  
Due Date: n/a

Date Mailed: March 12, 2002

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Certified copy of a French application, Serial No. 00/10029, filed July 28, 2000, the right of priority of which is claimed under 35 U.S.C. 119
- ☒ Supplemental Information Disclosure Statement, Form 1449, 6 Reference(s), Copy of International Search Report
- ☒ Other: Submission of Priority Document
- ☒ Return postcard

Patent

KMK/pjk

Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office:

In re Application of: Gabriel FESTOC  
For: DEVICE FOR THERMO-DEPENDENT CHAIN REACTION AMPLIFICATION OF TARGET  
NUCLEIC ACID SEQUENCES, MEASURED IN REAL-TIME  
Docket No.: 8076.231USW1  
Filed: October 15, 2001

Serial No.: 09/981070  
Due Date: n/a

Date Mailed: March 12, 2002

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Certified copy of a French application, Serial No. 00/10029, filed July 28, 2000, the right of priority of which is claimed under 35 U.S.C. 119
- ☒ Supplemental Information Disclosure Statement, Form 1449, 6 Reference(s), Copy of International Search Report
- ☒ Other: Submission of Priority Document
- ☒ Return postcard

Patent

KMK/pjk

